

Senate Bill No. 1394

Passed the Senate August 30, 2012

Secretary of the Senate

Passed the Assembly August 28, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 13113.7, 13113.8, 13114, and 17926 of the Health and Safety Code, relating to dwelling safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1394, Lowenthal. Dwelling safety: carbon monoxide and smoke detectors.

(1) Existing law provides that, subject to exceptions, a smoke detector, approved and listed by the State Fire Marshal, as specified, shall be installed, in accordance with the manufacturer's instructions in each dwelling intended for human occupancy. Existing law requires the owner of each dwelling unit subject to these requirements to supply and install smoke detectors in the locations and in the manner set forth in the manufacturer's instructions, as approved by the State Fire Marshal's regulations, and further requires, in the case of apartment complexes and other multiple-dwelling complexes, that a smoke detector shall be installed in the common stairwells. Existing law requires, for all dwelling units intended for human occupancy, upon the owner's application on or after January 1, 1985, for a permit for alterations, repairs, or additions, exceeding \$1,000, that a smoke detector be installed. Existing law authorizes the State Fire Marshal to adopt regulations exempting dwellings intended for human occupancy with fire sprinkler systems from these provisions, as specified. Existing law requires the owners of hotels, motels, lodging houses, apartment complexes, and other multiple-dwelling complexes to test and maintain smoke detectors, as specified. Existing law provides that a violation of any of these provisions is an infraction.

This bill would provide that, for all dwelling units intended for human occupancy for which a building permit is issued on or after January 1, 2014, for alterations, repairs, or additions exceeding \$1,000, the permit issuer shall not sign off on the completion of work until the permittee demonstrates that all smoke alarms required for the dwelling unit are devices approved and listed by the State Fire Marshal. The bill would provide that a fire alarm system with smoke detectors installed in accordance with the State Fire Marshal's regulations may be installed in lieu of, among other

things, the devices approved and listed by the State Fire Marshal described above, as specified. The bill would delete the authority of the State Fire Marshal to adopt regulations exempting dwellings intended for human occupancy with fire sprinkler systems from the above-described provisions. The bill would also delete the requirement that the owner of each dwelling unit subject to the above-described provisions must supply and install smoke detectors in the locations and in the manner set forth in the manufacturer's regulations. Instead, the bill would make owners of certain multiple-dwelling complexes, as specified, responsible for testing and maintaining alarms and, commencing January 1, 2014, also require owners of single-family dwellings that are rented or leased to be responsible for testing and maintaining smoke alarms, as specified, except as provided. The bill would also require the owner of a dwelling intended for human occupancy in which one or more units is rented or leased to install additional smoke alarms as needed to ensure that smoke alarms are located in compliance with current building standards on or before January 1, 2016, as specified. The bill would expand the definition of "dwelling units intended for human occupancy" for these purposes to include factory-built housing, as defined. The bill would delete the requirement that a smoke detector be installed in the common stairwells of apartment complexes and other multiple-dwelling complexes.

By expanding the scope of provisions of law, the violation of which is a crime, this bill would impose a state-mandated local program.

(2) Existing law, subject to exceptions, requires that every single-family dwelling and factory-built housing, as defined, which is sold have an operable smoke detector that is approved and listed by the State Fire Marshal and installed in accordance with the State Fire Marshal's regulations.

This bill would additionally require that for all dwelling units intended for human occupancy, upon the owner's application on or after January 1, 2014, for a permit for alterations, repairs, or additions, exceeding \$1,000, all smoke alarms required for the dwelling unit shall display the date of manufacture on the device, provide a place on the device where the date of installation can be written, incorporate a hush feature, incorporate an end-of-life feature that provides notice that the device needs to be replaced,

and, if battery operated, contain a nonreplaceable, nonremovable battery that is capable of powering the smoke alarm for a minimum of 10 years.

(3) Existing law provides that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

This bill would additionally provide that, commencing January 1, 2014, in order to be approved and listed by the State Fire Marshal, a smoke alarm shall display the date of manufacture on the device, provide a place on the device where the date of installation can be written, incorporate a hush feature, incorporate an end-of-life feature that provides notice that the device needs to be replaced, and, if battery operated, contain a nonreplaceable, nonremovable battery that is capable of powering the smoke alarm for a minimum of 10 years. The bill would authorize the State Fire Marshal to create exceptions to the above-described provisions through its regulatory process, as specified. The bill would also provide that if the State Fire Marshal determines that a sufficient amount of tested and approved smoke alarms are not available to property owners to meet the requirements described above by January 1, 2014, the State Fire Marshal may suspend enforcement of these provisions for a period not to exceed 6 months, as specified. The bill would also require the State Fire Marshal to approve the manufacturer's instructions for each smoke alarm and to ensure that the instructions are consistent with current building standard requirements for the location and placement of smoke alarms.

(4) Existing law requires an owner of a dwelling unit intended for human occupancy to install a carbon monoxide device in each existing dwelling, as specified. Existing law requires the installation of carbon monoxide devices in each existing single-family dwelling unit by July 1, 2011, and all other dwelling units by January 1, 2013. The State Housing Law creates standards for buildings used for human habitation. A violation of that law is a crime. Existing law requires an adopting agency or state agency that proposes new building standards to submit those standards for review by the California Building Standards Commission.

This bill would require the installation of carbon monoxide devices in all existing hotel and motel dwelling units intended for

human occupancy by January 1, 2016. The bill would require the Department of Housing and Community Development to adopt building standards to implement those provisions by July 1, 2014. Because the violation of a building standard is a crime, the bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 13113.7 of the Health and Safety Code is amended to read:

13113.7. (a) (1) Except as otherwise provided in this section, smoke alarms, approved and listed by the State Fire Marshal pursuant to Section 13114 at the time of installation, shall be installed, in accordance with the manufacturer's instructions in each dwelling intended for human occupancy.

(2) For all dwelling units intended for human occupancy for which a building permit is issued on or after January 1, 2014, for alterations, repairs, or additions exceeding one thousand dollars (\$1,000), the permit issuer shall not sign off on the completion of work until the permittee demonstrates that all smoke alarms required for the dwelling unit are devices approved and listed by the State Fire Marshal pursuant to Section 13114.

(3) However, if any local rule, regulation, or ordinance, adopted prior to January 1, 1987, requires installation in a dwelling unit intended for human occupancy of smoke alarms which receive their power from the electrical system of the building and requires compliance with the local rule, regulation, or ordinance at a date subsequent to the dates specified in this section, the compliance date specified in the rule, regulation, or ordinance shall, but only with respect to the dwelling units specified in this section, take precedence over the date specified in this section.

(4) Unless prohibited by local rules, regulations, or ordinances, a battery-operated smoke alarm, which otherwise met the standards

adopted pursuant to Section 13114 for smoke alarms at the time of installation, satisfies the requirements of this section.

(5) A fire alarm system with smoke detectors installed in accordance with the State Fire Marshal's regulations may be installed in lieu of smoke alarms required pursuant to paragraph (1) or (2) of this subdivision, or paragraph (3) of subdivision (d).

(b) "Dwelling units intended for human occupancy," as used in this section, includes a one- or two-unit dwelling, lodging house, apartment complex, hotel, motel, condominium, stock cooperative, time-share project, or dwelling unit of a multiple-unit dwelling complex, or factory-built housing as defined in Section 19971. For the purpose of this part, "dwelling units intended for human occupancy" does not include manufactured homes as defined in Section 18007, mobilehomes as defined in Section 18008, and commercial coaches as defined in Section 18001.8.

(c) A high-rise structure, as defined in subdivision (b) of Section 13210 and regulated by Chapter 3 (commencing with Section 13210), and which is used for purposes other than as dwelling units intended for human occupancy, is exempt from the requirements of this section.

(d) (1) The owner shall be responsible for testing and maintaining alarms in hotels, motels, lodging houses, apartment complexes, and other multiple-dwelling complexes in which units are neither rented nor leased.

(2) The owner of a hotel, motel, lodging house, apartment complex, or other multiple-dwelling complex in which units are rented or leased, and commencing January 1, 2014, the owner of a single-family dwelling that is rented or leased, shall be responsible for testing and maintaining alarms required by this section as follows:

(A) An owner or the owner's agent may enter any dwelling unit, efficiency dwelling unit, guest room, and suite owned by the owner for the purpose of installing, repairing, testing, and maintaining single station smoke alarms required by this section. Except in cases of emergency, the owner or owner's agent shall give the tenants of each such unit, room, or suite reasonable notice in writing of the intention to enter and shall enter only during normal business hours. Twenty-four hours shall be presumed to be reasonable notice in absence of evidence to the contrary.

(B) At the time that a new tenancy is created, the owner shall ensure that smoke alarms are operable. The tenant shall be responsible for notifying the manager or owner if the tenant becomes aware of an inoperable smoke alarm within his or her unit. The owner or authorized agent shall correct any reported deficiencies in the smoke alarm and shall not be in violation of this section for a deficient smoke alarm when he or she has not received notice of the deficiency.

(3) On or before January 1, 2016, the owner of a dwelling unit intended for human occupancy in which one or more units is rented or leased shall install additional smoke alarms, as needed, to ensure that smoke alarms are located in compliance with current building standards. Existing alarms need not be replaced unless the alarm is inoperable. New smoke alarms installed in compliance with current building standards may be battery operated provided the alarms have been approved by the State Fire Marshal for sale in the state. This paragraph shall not apply to fire alarm systems with smoke detectors, fire alarm devices that connect to a panel, or other devices that use a low-power radio frequency wireless communication signal.

(e) A violation of this section is an infraction punishable by a maximum fine of two hundred dollars (\$200) for each offense.

(f) This section shall not affect any rights which the parties may have under any other provision of law because of the presence or absence of a smoke alarm.

SEC. 2. Section 13113.8 of the Health and Safety Code is amended to read:

13113.8. (a) On and after January 1, 1986, every single-family dwelling and factory-built housing, as defined in Section 19971, which is sold shall have an operable smoke alarm. At the time of installation, the alarm shall be approved and listed by the State Fire Marshal and installed in accordance with the State Fire Marshal's regulations. Unless prohibited by local rules, regulations, or ordinances, a battery-operated smoke alarm that met the standards adopted pursuant to Section 13114 for smoke alarms at the time of installation shall be deemed to satisfy the requirements of this section.

(b) On and after January 1, 1986, the transferor of any real property containing a single-family dwelling, as described in subdivision (a), whether the transfer is made by sale, exchange,

or real property sales contract, as defined in Section 2985 of the Civil Code, shall deliver to the transferee a written statement indicating that the transferor is in compliance with this section. The disclosure statement shall be either included in the receipt for deposit in a real estate transaction, an addendum attached thereto, or a separate document.

(c) The transferor shall deliver the statement referred to in subdivision (b) as soon as practicable before the transfer of title in the case of a sale or exchange, or prior to execution of the contract where the transfer is by a real property sales contract, as defined in Section 2985. For purposes of this subdivision, “delivery” means delivery in person or by mail to the transferee or transferor, or to any person authorized to act for him or her in the transaction, or to additional transferees who have requested delivery from the transferor in writing. Delivery to the spouse of a transferee or transferor shall be deemed delivery to a transferee or transferor, unless the contract states otherwise.

(d) This section does not apply to any of the following:

(1) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(2) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, or transfers resulting from a decree for specific performance.

(3) Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary of a deed of trust by a trustor in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, or transfers by a sale under a power of sale after a default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale.

(4) Transfers by a fiduciary in the course of the administration of a decedent’s estate, guardianship, conservatorship, or trust.

(5) Transfers from one coowner to one or more coowners.

(6) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(7) Transfers between spouses resulting from a decree of dissolution of a marriage, from a decree of legal separation, or

from a property settlement agreement incidental to either of those decrees.

(8) Transfers by the Controller in the course of administering the Unclaimed Property Law provided for in Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(9) Transfers under the provisions of Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(e) No liability shall arise, nor any action be brought or maintained against, any agent of any party to a transfer of title, including any person or entity acting in the capacity of an escrow, for any error, inaccuracy, or omission relating to the disclosure required to be made by a transferor pursuant to this section. However, this subdivision does not apply to a licensee, as defined in Section 10011 of the Business and Professions Code, where the licensee participates in the making of the disclosure required to be made pursuant to this section with actual knowledge of the falsity of the disclosure.

(f) Except as otherwise provided in this section, this section shall not be deemed to create or imply a duty upon a licensee, as defined in Section 10011 of the Business and Professions Code, or upon any agent of any party to a transfer of title, including any person or entity acting in the capacity of an escrow, to monitor or ensure compliance with this section.

(g) No transfer of title shall be invalidated on the basis of a failure to comply with this section, and the exclusive remedy for the failure to comply with this section is an award of actual damages not to exceed one hundred dollars (\$100), exclusive of any court costs and attorney's fees.

(h) Local ordinances requiring smoke alarms in single-family dwellings may be enacted or amended. However, the ordinances shall satisfy the minimum requirements of this section.

(i) For the purposes of this section, "single-family dwelling" includes a one- or two-unit dwelling, but does not include a manufactured home as defined in Section 18007, a mobilehome as defined in Section 18008, or a commercial coach as defined in Section 18001.8.

SEC. 3. Section 13114 of the Health and Safety Code is amended to read:

13114. (a) The State Fire Marshal, with the advice of the State Board of Fire Services, shall adopt regulations and standards as he or she may determine to be necessary to control the quality and installation of fire alarm systems and fire alarm devices marketed, distributed, offered for sale, or sold in this state.

(b) (1) No person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

(2) (A) Commencing January 1, 2014, in order to be approved and listed by the State Fire Marshal, a smoke alarm shall display the date of manufacture on the device, provide a place on the device where the date of installation can be written, incorporate a hush feature, incorporate an end-of-life feature that provides notice that the device needs to be replaced, and, if battery operated, contain a nonreplaceable, nonremovable battery that is capable of powering the smoke alarm for a minimum of 10 years.

(B) The State Fire Marshal shall have the authority to create exceptions to this paragraph through its regulatory process. The exceptions that may be considered as part of the regulatory process shall include, but are not limited to, fire alarm systems with smoke detectors, fire alarm devices that connect to a panel, or other devices that use a low-power radio frequency wireless communication signal.

(3) The State Fire Marshal shall approve the manufacturer's instructions for each smoke alarm and shall ensure that the instructions are consistent with current building standard requirements for the location and placement of smoke alarms.

(4) If the State Fire Marshal determines that a sufficient amount of tested and approved smoke alarms are not available to property owners to meet the requirements of this article as of January 1, 2014, the State Fire Marshal may suspend enforcement of the requirements described in paragraph (2) for a period not to exceed six months. If the State Fire Marshal elects to suspend enforcement of these requirements, the department shall notify the Secretary of State of its decision and shall post a public notice that describes its finding and decision on its Internet Web site.

SEC. 4. Section 17926 of the Health and Safety Code is amended to read:

17926. (a) An owner of a dwelling unit intended for human occupancy shall install a carbon monoxide device, approved and listed by the State Fire Marshal pursuant to Section 13263, in each existing dwelling unit having a fossil fuel burning heater or appliance, fireplace, or an attached garage, within the earliest applicable time period as follows:

(1) For all existing single-family dwelling units intended for human occupancy on or before July 1, 2011.

(2) For all existing hotel and motel dwelling units intended for human occupancy on or before January 1, 2016.

(3) For all other existing dwelling units intended for human occupancy on or before January 1, 2013.

(b) With respect to the number and placement of carbon monoxide devices, an owner shall install the devices in a manner consistent with building standards applicable to new construction for the relevant type of occupancy or with the manufacturer's instructions, if it is technically feasible to do so.

(c) (1) Notwithstanding Section 17995, and except as provided in paragraph (2), a violation of this section is an infraction punishable by a maximum fine of two hundred dollars (\$200) for each offense.

(2) Notwithstanding paragraph (1), a property owner shall receive a 30-day notice to correct. If an owner receiving notice fails to correct within that time period, the owner may be assessed the fine pursuant to paragraph (2).

(d) No transfer of title shall be invalidated on the basis of a failure to comply with this section, and the exclusive remedy for the failure to comply with this section is an award of actual damages not to exceed one hundred dollars (\$100), exclusive of any court costs and attorney's fees. This subdivision is not intended to affect any duties, rights, or remedies otherwise available at law.

(e) A local ordinance requiring carbon monoxide devices may be enacted or amended if the ordinance is consistent with this chapter.

(f) On or before July 1, 2014, the department shall submit for adoption and approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, building standards for the installation of carbon monoxide detectors in hotel and motel dwelling units intended for human occupancy. In developing these standards, the department shall do both of the following:

(1) Convene and consult a stakeholder group that includes members with expertise in multifamily dwellings, lodging, maintenance, and construction.

(2) Review and consider the most current national codes and standards available related to the installation of carbon monoxide detection.

(g) For purposes of this section and Section 17926.1, “dwelling unit intended for human occupancy” has the same meaning as that term is defined in Section 13262.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2012

Governor